

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE CALLING A GENERAL MUNICIPAL ELECTION TO BE HELD IN THE CITY OF SUNNYVALE ON NOVEMBER 8, 2005, FOR THE PURPOSE OF SUBMITTING TO THE VOTERS OF THE CITY A MEASURE CONCERNING TRANSIENT OCCUPANCY TAXES, REQUESTING ELECTION CONSOLIDATION AND THE SERVICES OF THE REGISTRAR OF VOTERS

WHEREAS, the City Council is interested in submitting to the voters a measure concerning transient occupancy taxes; and

WHEREAS, whenever two or more elections of any legislative or congressional district, public district, city, county or other political subdivision are called to be held on the same day, in the same territory, or in territory that is in part the same, such elections may be either completely or partially consolidated pursuant to Part 3 (commencing with Section 10400) of Division 10 of the Elections Code, and Section 5342 of the Education Code; and

WHEREAS, Elections Code Section 10002 empowers the City Council to request the assistance of the County Registrar of Voters to provide election services to the City and the City Council intends to call a General Municipal Election on November 8, 2005, and for the consolidation of that election;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE THAT:

1. GENERAL ELECTION. A General Municipal Election hereby is called to be held in and for the City of Sunnyvale on Tuesday, November 8, 2005, for the purpose of submitting to the voters of the City the below-designated measure.
2. MEASURE. The City Council hereby submits to the voters of the City, at the General Municipal Election called for November 8, 2005, the following measure:

CITY OF SUNNYVALE MEASURE B

Shall the Sunnyvale Municipal Code be amended to increase the transient occupancy tax (commonly called the "hotel tax") which is charged only on persons who occupy hotel or motel rooms in the City for 30 days or less, from the current 8.5% to 9.5%, over a 2-year period, which is lower than that charged in San Jose, Palo Alto, Mountain View, Milpitas and Cupertino, in order to help maintain basic City services?

YES _____
NO _____

Attachment A

3. ADOPTION OF MEASURES. In the event a majority of the electors voting on the ballot measure set forth above vote in favor thereof, the Sunnyvale Municipal Code shall be amended to read as set forth in Exhibit "A", attached and incorporated, effective upon the date of filing. In the event the City Clerk or the Registrar of Voters is required to, or does, cause the publication or printing of the proposed amendments using distinguishing type styles to identify the proposed amendments, the Clerk or Registrar may authorize the use of any alternative distinguishing type style, such as italics, which is appropriate to the medium used for such publication or printing.

4. DUTIES OF CITY CLERK. The City Clerk hereby is directed to do all things required by law to effectuate the General Municipal Election and to present the measure submitted herein to the electorate, including, but not limited to, required publications, postings, noticings and filings. Further, the City Clerk is hereby directed to forward a copy of this resolution to the City Attorney for preparation of an impartial analysis of the measure submitted.

5. ARGUMENTS. Arguments for and against may be filed consistent with Elections Code Section 9282 et seq. The City Council confirms that the provisions of Elections Code Section 9285 do not apply and that no rebuttal arguments shall be permitted.

6. CONSOLIDATION OF ELECTIONS. The City Council hereby orders that this General Municipal Election be consolidated with other City of Sunnyvale General Municipal Elections to be held on Tuesday, November 8, 2005. Furthermore, pursuant to Part 3 (commencing with Section 10400) of Division 10 of the Elections Code, and Education Code Section 5342, the City Council hereby requests the governing body of any other political subdivision, or any officer otherwise authorized by law, to partially or completely consolidate such elections, and to further provide that, upon consolidation, the consolidated election shall be held and conducted, election officers appointed, voting precincts designated, ballots printed, polls opened and closed, ballots opened and returned, returns canvassed, and all other proceedings in connection with the election shall be regulated and done by the Registrar of Voters of the County of Santa Clara or any body or official authorized by law to perform such functions and canvass the returns of the elections; and that this City Council consents to such consolidation.

7. CONTRACT WITH REGISTRAR. Pursuant to Elections Code Section 22003, the City Council hereby requests the Board of Supervisors of the County of Santa Clara to permit the Registrar of Voters to render services to the City of Sunnyvale relating to the conduct of the General Municipal Election to be held on Tuesday, November 8, 2005.

Services shall be of the type normally performed by the Registrar of Voters in assisting the clerks of municipalities in the conduct of elections, including those certain services set forth herein.

Subject to the approval of the Board of Supervisors of the foregoing requests, the City Clerk is hereby authorized to engage the services of the Registrar of Voters to aid in the conduct of the election. Further, the City Director of Finance is authorized and directed to pay the costs of services, provided that no payment shall be made for services which the Registrar of Voters is otherwise required by law to perform.

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8. HOURS. The hours during which the polling places for the General Municipal Election shall be open shall be the hours established for the General Statewide Election.

9. IMPARTIAL ANALYSIS BY CITY ATTORNEY. Pursuant to Election Code Section 9280, the City Council hereby directs the City Attorney to prepare an impartial analysis of the measure.

10. TRANSMITTAL OF RESOLUTION. The City Clerk is hereby directed to submit forthwith a certified copy of this resolution to the Board of Supervisors, to the Registrar of Voters, and to the County Clerk of the County of Santa Clara.

11. EXEMPTION FROM CEQA. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Sections 15061(b)(3) and 15378(a), that this resolution is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment. This action is further exempt under the definition of Project in Section 15378(b)(3) in that it concerns general policy and procedure making. The Council therefore directs that a Notice of Exemption be filed with the Santa Clara County Clerk.

Adopted by the City Council of the City of Sunnyvale at a regular meeting held on June ___, 2005, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

City Clerk

APPROVED:

By _____

City Clerk

(SEAL)

Mayor

APPROVED AS TO FORM AND LEGALITY:

David E. Kahn, City Attorney

EXHIBIT "A" TO RESOLUTION NO. _____

**PROPOSED AMENDMENT TO THE
SUNNYVALE MUNICIPAL CODE**

The City Council of the City of Sunnyvale, on its own motion, submits to the Electors the following amendment to the Sunnyvale Municipal Code. The City Council has called a consolidated general election for the purpose of voting on the amendment to be held on November 8, 2005.

The proposed amendment to the Municipal Code follows the statement of the measure. The provisions of the Municipal Code proposed to be deleted are printed as ~~strike-out~~ type, and the new provisions are printed as underlined type.

CITY OF SUNNYVALE MEASURE B

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YES _____

NO _____

If Measure B carries, the Sunnyvale Municipal Code shall be amended by amending Section 3.16.040 to read as follows:

3.16.040 Imposition—Rate—Payment.

(a) _____ For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of eight percent of the rent charged by the operator through June 30, 1995, and eight and one-half percent of the rent charged by the operator on or after July 1, 1995.

(b) Commencing January 1, 2007, and continuing through December 31, 2008, the amount of the tax shall be nine percent of the rent charged by the operator. Effective January 1, 2009, the amount of the tax shall be nine and one-half percent of the rent charged by the operator, provided, however, that the average citywide hotel/motel occupancy rate from January 1 through September 30, 2008, as determined by the Director of Finance, is at least sixty percent. If the average occupancy rate during this period is less than sixty percent, the increase in the amount of the tax shall be deferred until January 1, 2010. In any event, the amount of the tax on and after January 1, 2010, shall be nine and one-half percent of the rent charged by operator.

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(c) Said tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator or to the city. The transient, or any person paying rent on the transient's behalf, shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the tax administrator may require that such tax shall be paid directly to the tax administrator.